IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REV. APPLICATION NO.330 OF 2005

Sakharam T. Gurao .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

Mr.C.N.Chavan for petitioner

Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 6th December 2006.

P.C.

. This Revision Application is directed against an order dated 29th March 2005 acquitting the respondent Nos. 2 and 3 before me from

offences punishable under section 306, 498A read with 34 I.P.C.

2. Complainant is Suresh Tukaram Gurav. His sister Vimal was married to respondent No.2, Pandharinath. The marriage was solemnised, according to complainant, some time in the year 2002 and the sister Vimal died on 14th October 2003, under suspicious circumstances in Rajapur Taluka, Dist. Ratnagiri.

3. Crime was reported by the complainant Suresh Gurav. That is how C.R.63 of 2003 was registered by the Rajapur police station.

4. After the investigations were complete, the case was committed to the Court of Sessions at Ratnagiri. Learned Sessions Judge framed charges. Accused pleaded not guilty and that is how the matter proceeded.

5. The prosecution examined three witnesses. The complainant Suresh Gurav was examined at Exh.13, Madhukar Gurav was examined at Exh.45 and I.O. at Exh.16. C.A. report was taken on record.

6. Mr.Chavan for applicant submits that the order of acquittal of the accused Nos. 2 and 3 suffers from serious infirmities and errors apparent the face of record. In his submission, the Additional Sessions Judge Ratnagari had erroneously disbelieved the statement of complainant so also other witnesses when the death occurred, within the period prescribed by the Statute from the date of marriage. Once such is the nature of the grievances and prosecution is under section 498-A coming into play, the learned Sessions Judge ought to have scrutinised the entire materials carefully and cautiously. Instead, the accused have been let off by referring to some minor omissions which are in no

way fatal to the prosecution case. He submits that sections 306 and 498A were relevant statutory provisions which were applied to the case at hand. The menace of dowry deaths so also harassment and ill-treatment to newly wedded wife is something of which judicial notice has also been taken. In such circumstances, the entire approach of the learned Judge is faulty and this Court should step in and pass such orders as are necessary in law to prevent miscarriage of justice. Reliance is placed on the decision of this Court in the case of Laxman Irayya Yenganti Vs. State of Maharashtra reported in 1995 (1) Mh.L.J. 403.

7. With the assistance of Mr.Chavan, I have perused the judgement. I have also seen relevant statutory provisions and the decision brought to my notice.

8. The applicant before me is P.W.1. He is

brother of deceased Vimal. Once his grievance is that his sister was ill-treated and harassed by her husband and in laws, naturally in the cross examination, he was asked as to whether any incident took place prior to her death and the response is that there were some incidents. The next question to him naturally was whether these incidents were reported by her to the complainant and what steps were taken by him. He was specifically asked as to whether any complaint was made to police or a meeting was arranged to sort out the disputes between husband and wife. In these circumstances and finding that the answers were not at all satisfactory that the learned Judge has then referred to the cross examination, where the said Suresh Gurav admits that the report was prepared by the police. Its contents were also written by the police and without reading them, he has proceeded to sign the same. This is not the only aspect of the matter that is highlighted in the impugned order.

The learned Judge has referred to the version of the complainant and rightly arrived at a conclusion that usual differences and quarrel between husband and wife would not be sufficient to come to a conclusion that the deceased was subjected to cruelty as envisaged by section 498A of I.P.C. Learned Judge, thereafter referred to the fact that the incidents narrated by the deceased to one Bamne are concerned they cannot be taken into account, because the said Bamne has not been examined. Version of Madhukar Gurav is referred to in paras 19 and 20. Madhukar Gurav is prosecution witness. According to learned Judge, he narrates an entirely different version than that of the complainant/brother of deceased.

9. It is in these facts and circumstances which are peculiar to the present case that the learned Additional Sessions Judge has rightly criticised the conduct of the investigating machinery and the approach of parties in such

cases. Once it is accepted that there were usual and normal disputes between the husband and wife which are of domestic nature, then the case under section 498A is not made out. Therefore, the prosecution has failed to bring home the charges. In these circumstances, the decision relied upon is of no assistance. Thus, I am unable to accept the submission of Mr.Chavan.

10. In my view, the learned Judge has not committed any error apparent on the face of record nor his judgement can be said to be perverse so as to call for interference under revisional jurisdiction. It has not been demonstrated as to how findings and conclusions are vitiated by any material irregularity so as to call for interference because such material irregularity must lead to manifest injustice. Limits of revisional jurisdiction being what they are, this is not a fit case for interference. Revision dismissed.

(S.C.Dharmadhikari, J)